



CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA

November 5, 2021

By Electronic Mail

Mary E. Greene
Acting Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: November Update to Response to April 24, 2020 Letter from the U.S. Environmental Protection Agency

Dear Ms. Greene:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter as the eighteenth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency (“EPA” or the “Agency”) regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

Please note that this letter and certain attachments to this letter include confidential business information (“CBI”) and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We ask that LDEQ and KDHE similarly treat this as CBI under their analogous state laws.¹

¹ Certain attachments to this letter include CBI, which Birla has designated as such with the stamp “CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO DISCLOSURE UNDER FOIA.” Based on a review of relevant LDEQ regulations, La. Admin. Code tit. 33, pt. I, § 501(A), Birla understands that it must submit any CBI via mail or delivery to

Birla Carbon USA, Inc.

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T: (770)792-9400 | F: (770)792-9328 | W: www.birlacarbon.com

I. North Bend

Since our last update, construction is ongoing at North Bend for installation of equipment required under the Consent Decree. Additionally, Birla's application to modify North Bend's Title V operating permit to include consent decree applicable requirements remains under review with LDEQ.

On August 28, 2021, in response to Hurricane Ida's predicted landfall near North Bend, Birla shutdown the plant and evacuated all personnel, including construction crews. North Bend was closed from the morning of August 28, 2021, through the evening of August 30, 2021. *See Confidential Attachment 1.* The project manager and associated contractors remobilized 100% of the construction crews in October. Birla does not anticipate additional issues with manning the project at full capacity. Currently, the construction teams are working on the [REDACTED] for the new control systems and equipment. This began [REDACTED], as is currently anticipated.

Birla's vendor for the seawater scrubber system and SCR units, [REDACTED], continues to estimate a two-to-four month delay for various components of the scrubber system. *See Confidential Attachment 1.* [REDACTED], the vendor for the reactor vent scrubber system is also experiencing delays due to the lack of access to manufacturing facilities in connection with poor weather conditions and continuing COVID-19 restrictions in India. *See Confidential Attachment 1.* As of October 21, 2021, the reactor vent scrubber system arrived at the Mumbai, India port for shipment. The reactor vent scrubber system will ship in two shipments. The first shipment departed the Mumbai port on October 21, 2021, and is expected to arrive at the New Orleans, Louisiana port on December 21, 2021. The second shipment departed the Mumbai port on October 28, 2021, and is expected to arrive at the New Orleans port on December 28, 2021. *See Confidential Attachment 2.* It should be noted that these dates do not account for unloading times or transportation of the reactor vent scrubber system from New Orleans to North Bend.

Birla continues to assess the impact on the construction schedule due to the effects of Hurricane Ida resulting in North Bend's temporary shutdown, evacuation of personnel, and demobilization and remobilization of project construction crews, as well as the continuing effects of the COVID-19 pandemic. The projected target completion date for the SCR and absorber is still projected to be completed by December 31, 2021, with continuous operations projected at January 31, 2022. *See Confidential Attachment 1.* In regards to the reactor vent scrubber system, the date of installation is currently estimated to be March 16, 2022, and the system to be commissioned and in continuous operation by April 16, 2022. *See Confidential Attachment 1.* However, this date remains fluid until all equipment deliveries can be confirmed. *See Confidential Attachment 1.* The final commission of the SCR and seawater scrubber system is anticipated to take place sometime in January 2022 with the Continuous Emissions Monitoring System ("CEMS") being certified around January 31, 2022, however the reactor vent scrubber will be at the later date provided above.

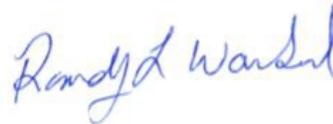
LDEQ and not electronically. At this time, Birla is providing the entire submittal to EPA and KDHE, and will separately submit the letter and its attachments to LDEQ.

II. Hickok

Hickok is in continuous operations under the Consent Decree and is meeting its Consent Decree obligations as of June 12, 2021.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

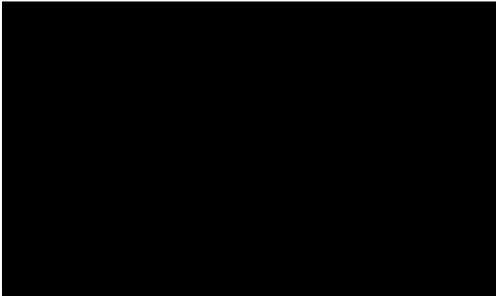
CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Bill Peterson, U.S. EPA Region 7 (by email)
Lisa Hanlon, U.S. EPA Region 7 (by email)
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
Deidre Johnson, LDEQ (by FedEx)
David Buente, Sidley Austin LLP (by email)
Allen Braddock, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021 - 11 - 03 - North Bend - Letter from Engineer of Record

Confidential Attachment 2 - 2021 - 10 - 28 - North Bend - Email Correspondence from Reactor Vent Scrubber Vendor

CONFIDENTIAL ATTACHMENT 1

2021-11-03 - North Bend -
Letter from Engineer of Record



As of November 3rd , we are informed by Owner's Vendor [REDACTED] that they are incurring delays of anywhere from two (2) to four (4) months for various components of the AQCS due to the lack of access to manufacturing facilities in connection with the restrictions related to the COVID-19 virus. Additionally, the absorber manufacturer contracted by [REDACTED], [REDACTED], has issued [REDACTED] a Force Majeure claim as of March 2nd, claiming a two week delay due to the extreme cold weather event in February and Covid impacts. Delays in delivery of [REDACTED] equipment have directly affected the project schedule. Currently we are still awaiting the BMS panels which are directly impacting progress.

In addition, Owner's Vendor [REDACTED] delayed their hydrotest dates until January 18th and 29th, 2021, causing a delay of the delivery of the HRSG until March 3rd. This was over two months past the original delivery date.

A new priming system skid has been sourced after the original vendor backed out of their contract due to the death of the company Principal and Covid 19 impacts. The new vendor, [REDACTED], delivered the skid in August of 2021, an approximate slip of more than four months over the original delivery date of April 1st.

Additionally, the entire North Bend plant was evacuated the week of August 24th, 2020 due to two named storms, Hurricane Laura and Tropical Storm Marco.

Also, the entire North Bend facility was evacuated again October 8th – 11th, 2020 for Hurricane Delta. This evacuation had initially delayed the piling contractor Patriot Construction and they had issued a Force Majeure notice for this event. The piling is now complete, and this has been incorporated into the current schedule.

Another extreme weather event that impacted the project was the record cold in February 2021. The site was closed Feb 15th – 17th due to local roads being closed restricting access to the site. Additionally, we did close the site a few days in April due to lightning, but contractors worked Saturdays to mitigate.

On August 27th, 2021, the site began preparing for Hurricane Ida. The site was evacuated August 28th through the 30th. The trade contractors were not able to restaff the job fully immediately due to large portions of their staff having been directly impacted by the hurricane and that were not able to return immediately after the storm. Additionally, the reduced availability and higher prices for fuel and accommodations in the area affected the availability of craft labor.

November 3rd , 2021
Mr. Mark Vannice
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These potential delays by the Vendors and the weather-related evacuations and closures of the site translates to a corresponding delay affecting the Engineer's Schedule that is also outside the control and without fault of Engineer. Engineer is taking every effort to overcome or mitigate the potential delays and will keep you informed as further information becomes available, so that we can work together cooperatively to address any problems that may arise on your Facility project.

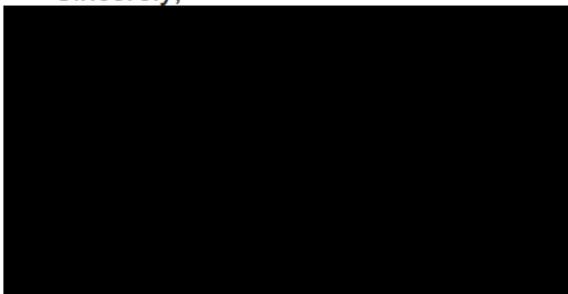
The AQCS project schedule was significantly impacted by Hurricane Ida. Ida had a significant effect on the availability of manpower. The impact from Ida has delayed the project by 4 weeks. The execution of the outages has been rearranged to mitigate the lost time due to Ida. Currently the continuous operation date is January 31st, 2022.

The vent scrubber project is experiencing delays due to late equipment deliveries. The scrubbers provided by [REDACTED] are being impacted the Covid 19 pandemic in India. The current estimated Vent Scrubber completion date is April 15th, 2021. However, this date is still fluid until as all equipment deliveries can be confirmed, in particular scrubbers and the new ignitors and associated control equipment and valving. The schedule is under review with Birla management and will be updated shortly.

We continue to monitor the situation and will keep the Owner apprised of additional delays or improvements as they are discovered.

Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions.

Sincerely,



cc: Randy Waskul, Birla



CONFIDENTIAL ATTACHMENT 2

2021-10-28 - North Bend -
Email Correspondence from Reactor Vent Scrubber
Vendor

From: [Waskul, Randy](#)
To: [Bradlock, Allen S.](#)
Subject: N. Bend Reactor Vent Scrubber Shipping Status
Date: Thursday, October 28, 2021 6:11:50 AM
Attachments: [image001.png](#)
[image002.png](#)


Allen

Below is an email from the manufacturer regarding the shipment of the units to the US.

With Kindest Regards,

Randy

Randy Waskul
Global Director Health, Safety and Environment



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From: [REDACTED]
Sent: Thursday, October 28, 2021 2:55 AM
To: Yeomans, Geoffrey <Geoffrey.Yeomans@adityabirla.com>
Cc: Reasoner, Michael <Michael.Reasoner@adityabirla.com>; [REDACTED]; Waskul, Randy <Randy.Waskul@adityabirla.com>; Leonard, Mark <Mark.Leonard@adityabirla.com>; Romero, Wayne <Wayne.Romero@adityabirla.com>; Vannice, Mark <Mark.Vannice@adityabirla.com>; Smith, Tom <Tom.Smith@adityabirla.com>; 'Lien, Michael' <michael.lien@snclavalin.com>
Subject: RE: [SPAM] Re RE RE RE RE Birla North Bend Vent ScrubberDRAFTINVOICE

CAUTION This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

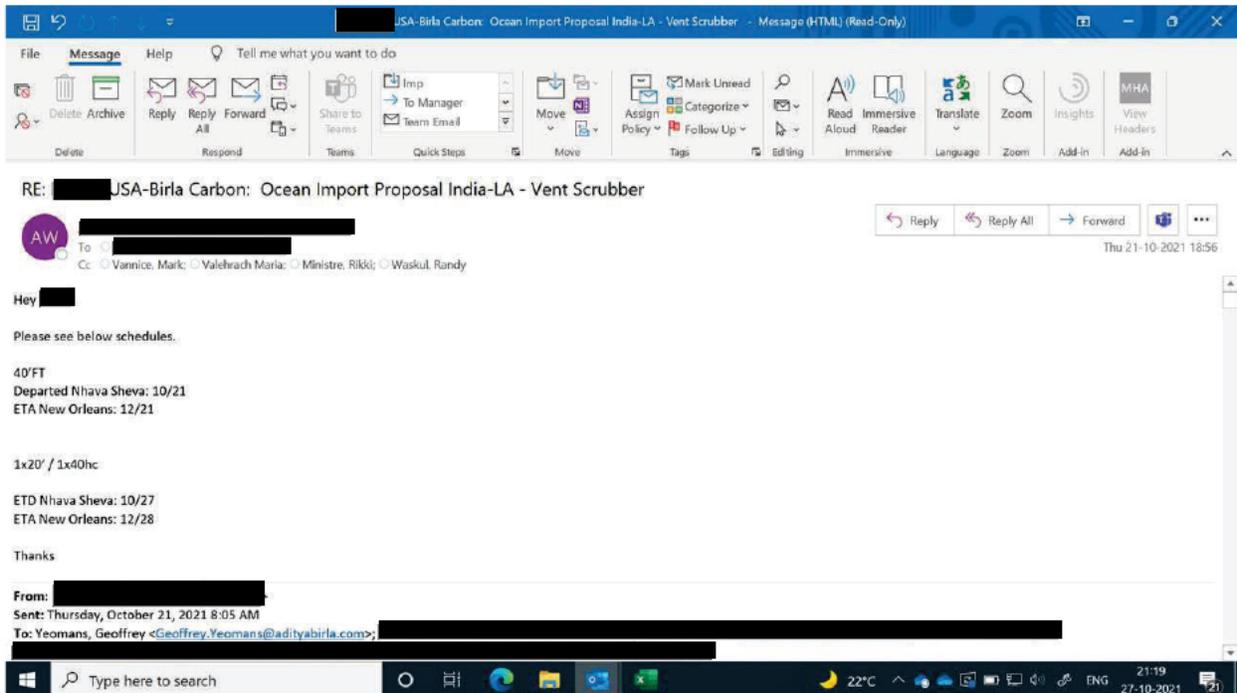
Dear Sir,

As informed by forwarder "40 FR container boarded on vessel dt 21st October 1x20 & 1x40 containers boarded on vessel dt 27th October "

This is due to shipping line planning based on space availability

We understand that [REDACTED] had informed you this in advance vide below message

"



The screenshot shows an Outlook email interface. The subject line is "RE: [REDACTED] JSA-Birla Carbon: Ocean Import Proposal India-LA - Vent Scrubber". The sender is [REDACTED] with initials "AW". The recipient list includes [REDACTED], Vannice, Mark, Valehrad, Maria, Ministre, Rikki, Waskul, Randy. The email body contains shipping schedules for 40' FT and 1x20' / 1x40hc containers. The Outlook ribbon is visible at the top, and the Windows taskbar is at the bottom.

"

Indian forwarder [REDACTED] have confirmed sailing of vessel dt 27th October

This is for your information

Regards,

[REDACTED]

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